

**MINUTES OF THE
JOINT CAPITAL FACILITIES & GOVERNMENT OPERATIONS
APPROPRIATIONS SUBCOMMITTEE MEETING
WEDNESDAY, JANUARY 18, 2007, 2:00 P.M.
Room W025, West Office Building, State Capitol Complex**

Members Present:

Sen. Scott Jenkins, Committee Co-Chair
Rep. D. Gregg Buxton, Committee Co-Chair
Sen. Mike Dmitrich
Sen. Darin Peterson
Rep. Ralph Becker
Rep. DeMar “Bud” Bowman
Rep. Stephen Clark
Rep. Janice M. Fisher
Rep. Fred R. Hunsaker
Rep. Gordon Snow
Rep. Richard Wheeler

Members Excused: Sen. Sheldon Killpack

Members Absent: Rep. Mark Walker

Staff Present: Steve Allred, Fiscal Analyst
Jonathan Ball, Technology Analyst
Todd Wardrop, Fiscal Analyst
Bonnie Brinton, Committee Secretary

Public Speakers Present:

Executive Director Kimberly Hood, Department of Administrative Services

Assistant Director Kent Beers, Division of Capital Planning, Budget & Government Affairs

David Williams, Accounting Manager, Division of Facilities Construction and Management

Curtis Clark, Energy Manager, Division of Facilities Construction and Management

Assistant Director Bruce Whittington, Division of Facilities Construction and Management

Director Patricia Smith-Mansfield, Division of State Archives

Director John Reidhead, Division of Finance

John Bennett, Project Manager, LeRay McAllister Fund, Governor's Office, Quality Growth Commission

Director David Johnson, Division of State Debt Collection

A list of visitors and a copy of handouts are filed with the committee minutes.

Co-Chair Buxton called the meeting to order at 2:05 p.m.

Co-Chair Buxton thanked agency personnel for hosting the tour on Wednesday.

Analyst Allred also expressed appreciation to the directors for their excellent presentations. He stated that Zions Bank experts will attend the Subcommittee meeting on Thursday, January 25. This will be a good opportunity for members to ask questions regarding bonding.

1. Department of Administrative Services - Appropriated Budget Agencies

a. Executive Director's Office

Executive Director Kimberly Hood explained the need for a Building Block of \$60,000 for DTS support. She asked for flexibility in allowing EDO to distribute funds to the agencies where there is a critical need for DTS support.

The Analyst stated that he is recommending the Legislature adopt a total base appropriation of \$822,600 for the Executive Director's Office line item, intent language making the FY 2007 appropriation nonlapsing but limited to uses specified in the language, GRAMA fees on record for the entire Department of Administrative Services, and to authorize the Analyst to put DTS support of \$60,000 on the priority list for discussion at the final meeting. Mr. Allred stated that he feels the DTS support is a good use of funds from DTS internal service fund rate savings.

MOTION: Rep. Becker moved to adopt the Analyst's recommendations. The motion passed unanimously with Rep. S. Clark absent for the vote.

b. Administrative Rules

Mr. Allred explained the eRules application replacement. He stated that eRules is a web-enabled filing and publishing system constructed with one-time funds between 1999 and 2001. The software is an improvement over the former paper-based filing system. The Department of Technology Services has notified the Division that critical components of the application, such as MS BizTalk v. 1, would soon not be supported by Microsoft. Since January, 2006, efforts to fix minor bugs have been unsuccessful. The environment is becoming less stable and agencies are experiencing problems with downtime.

The Analyst further stated that the Division will add another \$55,500 from its nonlapsing funds and its system support budget, for a total of \$127,000. Within this amount, DTS will do all the reprogramming, make additions to the Oracle database behind the system, and add a

reporting module.

The Analyst stated that he is recommending the Legislature adopt a total base appropriation of \$338,800 for the Division of Administrative Rules, an FY 2007 supplemental one-time appropriation of \$71,500 from the General Fund to replace the dRules software application, and intent language making the FY 2007 appropriation nonlapsing but limited to uses specified in the language.

MOTION: Sen. Dmitrich moved to approve the Analyst's recommendation. The motion passed unanimously with Rep. Becker absent for the vote.

c. Division of Facilities Construction and Management

The Analyst explained the use of Reserve Funds. He stated that the 2006 Legislature anticipated a need and authorized transfer of \$1.5 million from the Contingency Reserve Fund to the Project Reserve Fund. Project Reserve Funds were expected to be needed to complete the Dixie State College Health Science Building, SLCC Health Science Building, and SUU Teacher Education Building. The Division has transferred \$2.25 million for the DSC project and \$2.5 million for the SLCC project. The SUU bids came within budget and haven't required additional funding.

Mr. Allred explained that in 2006 DFCM used Project Reserve Funds to finish bids on two "other" funded projects. This was an unusual circumstance and a policy call needing legislative attention. Mr. Allred recommends the Legislature ratify the expenditures since no clear legislative language forbade it, but also recommends the Legislature express that use of the CRF for non-state funded projects should be limited to exceptional situations and should occur after notification of the two CFGO Subcommittee Co-Chairs.

The Analyst stated that he is recommending the Legislature adopt a total base appropriation of \$4,792,700 for the DFCM Administration line item, to authorize the Analyst to put an increased appropriation of \$1,500,000 in one-time General Funds for energy efficiency projects on the priority list for discussion at the final meeting, and go on record to encourage the Division to not use Project Reserve Fund money for non-state-funded projects without authorization of the Subcommittee Co-Chairs.

Assistant Director Kent Beers, Division of Capital Planning, Budget & Government Affairs, and David Williams, Accounting Manager, Division of Facilities Construction and Management, responded to questions. Rep. Hunsaker stated his concern regarding setting a precedent by allowing the use of reserve funds for "other" funded projects.

Curtis Clark, Energy Manager, Division of Facilities Construction and Management, distributed a handout titled, "State Buildings Energy-Efficiency Program." He explained that Utility Energy-Efficiency Contracting is a demand-side management service provided by Rocky Mountain Power to improve efficient use of electricity. DFCM has contracts with Rocky Mountain Power for all projects within their service territory. There has been a significant increase in program involvement in the year 2006. He further stated that the State currently pays over \$60 million annually on energy to operate its 2,500 buildings and that the goal of Energy Efficiency Projects is to improve efficient use of energy commodities by 20% statewide by year 2015.

Mr. Clark explained that in FY 2003, the State entered into three Energy Savings Performance Contracts as pilot projects. The aim of these projects was to upgrade electrical and mechanical systems using the energy cost savings from implementing those energy projects. A loan, currently valued at over \$21 million was used to pay for the pilot projects. The contracts were completed in FY 2006 and yielded savings of \$1.3 million in the first year alone. The pilot projects have failed to meet the break-even goal and have had a negative cumulative savings.

Director Bruce Whittington, Division of Facilities Management, responded to questions.

Rep. S. Clark requested DFCM to provide Subcommittee members with a list of projects showing the savings resulting from the energy projects and how the amount was calculated. He stated that he felt this would aid the Subcommittee in deciding which projects to fund. He also requested a report showing how the \$1.5 million will be used.

MOTION: Rep. Hunsaker moved to approve the Analyst's recommendations. The motion passed unanimously with Rep. Becker absent for the vote.

MOTION: Rep. Bowman moved to approve the minutes of February 6, 2006. The motion passed unanimously with Rep. Becker absent for the vote.

d. State Archives

The Analyst explained the two issues regarding Archives which are public access to the digitized collections and the growth of electronic records that are public and historically significant.

Director Patricia Smith-Mansfield, Division of State Archives, thanked the Subcommittee for their attendance on the tour. Rep. Bowman stated that he would like to tour the Archives at

some future date.

Mr. Allred recommends the Legislature adopt a total base appropriation of \$2,392,500 for the Division of State Archives, authorize the Analyst to put an additional one-time appropriation of \$100,000 for electronic archiving on the priority list for discussion at the final meeting, an additional ongoing appropriation of \$55,000 for public access to digitized records, and intent language making the FY 2007 appropriation nonlapsing but limited to uses specified in the language.

MOTION: Co-Chair Jenkins moved to approve the Analyst's recommendations. The motion passed unanimously with Sen. Dmitrich and Rep. Becker absent for the vote.

e. Division of Finance

Administration

Mr. Allred recommends the Legislature adopt a total FY 2008 base appropriation of \$11,628,300 for the Division of Finance - Administration, and intent language making the appropriation nonlapsing for purposes specified.

MOTION: Co-Chair Jenkins moved to accept the Analyst's recommendation. The motion passed unanimously with Sen. Dmitrich and Reps. Becker and Wheeler absent for the vote.

Mandated

Regarding the issue of eliminating funding for the Retirement Benefits Program, Mr. Allred explained that House Bill 213, "Unused Sick Leave at Retirement Amendments" (2005 G.S.) included a fiscal note of \$150,000 in one-time General Funds, plus \$50,000 in ongoing General Funds appropriated to the Division of Finance for pass-through to the Retirement Office to administer requirements of the new law. The Analyst recommends lapsing or reallocating \$250,000 in one-time funds (appropriations from FY 2006 and FY 2007), and lapsing or reallocating \$50,000 in ongoing funds (FY 2008 base). Any reallocations by the Subcommittee would be contingent on approval from the Executive Appropriations Committee.

The Analyst discussed the LeRay McAllister Fund. He stated that this Fund went from a base appropriation of \$2,750,600 to \$482,600 during budget cuts. Since then the Legislature has opted to appropriate one-time funds. Since FY 1999, State funds have been matched by other grants at a 6.2 to 1 ratio. These additional matching funds do not appear in the State budget but are part of the Quality Growth Commission's grant process.

John Bennett, Project Manager, LeRay McAllister Fund, Governor's Office, Quality Growth Commission, discussed open-space conservation and responded to questions.

Regarding Development Zone Partial Rebates, Mr. Allred explained that the Division of Finance is required by statute to make partial rebates from the Economic Incentive Restricted Account to certain industries which bring in new state revenues. Documentation is required from the Governor's Office of Economic Development (GOED). Statute requires the account be used for any individual or company that enters into an agreement with GOED and has generated verifiable new state revenues. Partial rebates can only be paid on projects that are within an Aerospace and Aviation Development Zone.

Analyst Allred further explained that the FY 2006 appropriation was \$981,900, of which \$929,500 lapsed back to the Economic Incentive Restricted Account. The FY 2007 appropriation was \$1,528,000, made during the 2006 Second Special Session, of which \$1,291,000 is expected to lapse. The Governor's Office has requested re-appropriation of prior year lapsed funds plus a new \$1,719,000 for FY 2008, an increase of \$191,000 over the FY 2007 base. In total, the FY 2008 request is \$3,939,500.

The Analyst stated that the Economic Development and Revenue Appropriations Subcommittee determines the amount to fund, and then appropriates money from the General Fund into the Economic Incentive Restricted Account. At that point the Capital Facilities and Government Operations Subcommittee appropriates from the restricted account. Mr. Allred recommends appropriating the base budget of \$1,528,000 in FY 2008, then waiting for the Economic Development and Revenue Appropriations Subcommittee to decide what funds should be added to or taken from the base.

The Legislative action recommended by the Analyst is to adopt a total FY 2008 base appropriation of \$2,060,600 for the Division of Finance - Mandated line item, to authorize the Analyst to put a one-time appropriation increase of \$2,000,000 for the LeRay McAllister Fund on the priority list for discussion at the final meeting, an appropriation adjustment from the Economic Incentive Restricted Account as determined by the Economic Development and Revenue Appropriations Subcommittee.

MOTION: Rep. Fisher moved to accept the Analyst's recommendation for the Division of Finance - Mandated with the following change: that a one-time appropriation increase of \$1,000,000 and an ongoing appropriation increase of \$1,000,000 for the LeRay McAllister Fund be placed on the priority list for discussion at the final meeting.

SUBSTITUTE MOTION: Sen. Peterson moved to accept the Analyst's recommendations

as stated by the Analyst for the Division of Finance - Mandated. The motion passed with Reps. S. Clark and Fisher voting against the motion and Sen. Dmitrich and Rep. Becker absent for the vote.

f. Post-Conviction Indigent Defense Fund

The Analyst stated that the Division of Finance manages two accounts funded by participating counties with statutory language for legislative consideration of any shortfall. They are the *Indigent Inmate Defense Fund*, which is for inmates convicted of crimes while in prison; the *Indigent Capital defense Fund*, which provides money to defend indigents charged with capital crimes in participating counties. The Division of Finance assesses the twenty-four participating counties annually and should be able to manage the fund in FY 2007 without State assistance.

Regarding the issue of using Carry-Forward Balances, Mr. Allred explained that the program should be able to continue with carry-forward balances in FY 2008. After expending \$50,600 in FY 2006, the fund had \$269,400 remaining in nonlapsing balances. Even if expenditures rise to the program's current year appropriations of \$74,000, the nonlapsing balance in the program should be sufficient to meet FY 2007 and FY 2008 expenditures. However, at some point in the future the program's nonlapsing balance will run out, requiring additional State funding for the program.

The Analyst recommends the Legislature adopt a total FY 2008 appropriation of \$74,000 for the Post Conviction Indigent Defense Fund and intent language making the FY 2007 appropriation nonlapsing but limited to uses specified in the language.

MOTION: Rep. Wheeler moved to accept the Analyst's recommendations. The motion passed unanimously with Sen. Dmitrich and Rep. Becker absent for the vote.

g. Judicial Conduct Commission

Mr. Allred recommends the Legislature adopt a total FY 2008 base appropriation of \$237,300 for the Judicial Conduct Commission and intent language making this appropriation nonlapsing for temporary contractors as needed.

MOTION: Rep. Bowman moved to accept the Analyst's recommendations for the Judicial Conduct Commission. The motion passed unanimously with Sen. Dmitrich and Rep. Becker absent for the vote.

h. Purchasing and General Services

The Analyst recommends the Legislature adopt a total FY 2008 base appropriation of \$1,591,200 for the Division of Purchasing and General Services and intent language making the FY 2007 appropriation nonlapsing but limited to uses specified in the language.

MOTION: Co-Chair Jenkins moved to accept the Analyst's recommendations. The motion passed unanimously with Sen. Dmitrich and Rep. Becker absent for the vote.

i. Office of State Debt Collection (OSDC)

Mr. Allred discussed Restricted Special Revenue Funds (RSRFs). He stated that RSRFs are one of twelve major fund types in state government. Essentially, RSRFs are funds created by legislation that identifies specific revenue sources such as fees, taxes, donations, federal funds, etc.; defines the use of the money for a specific function of government; and delegates spending authority over the fund's assets to a board, department, or other officials.

Regarding deposits into the General Fund, the Analyst explained that Statute requires OSDC to "ensure that monies remaining in the fund at the end of the fiscal year that are not committed are deposited into the General Fund." For FY 2006 the Office opted not to transfer any money to the General Fund even though their retained earnings were much higher than usual. Office staff chose to keep enough money in case of a revenue shortfall, yet they had more money than in prior years when they deposited money to the General Fund. OSDC's FY 2006 retained earnings of \$941,600 represents approximately eight months of reserves.

Further, Mr. Allred explained that OSDC states that an ISF is allowed to borrow from the General Fund in bad times, whereas a special revenue fund is not. Regardless, he suggests that maintaining eight months of reserves may not comply with the statutory intent of ensuring "uncommitted monies" are deposited into the General Fund. The Analyst recommends the Legislature and the OSDC come to agreement on an acceptable level of retained earnings. He stated that this is the only issue to decide regarding OSDC.

Director David Johnson, Division of State Debt Collection, suggested six months would be an acceptable level of retained earnings. The Analyst reminded Subcommittee members that additional funds could be appropriated to the Division if needed.

MOTION: Rep. Snow moved to return \$500,000 from the State Debt Collection Fund to the General Fund.

The motion passed unanimously with Sen. Dmitrich and Reps. Becker and Walker absent for the vote.

Co-Chair Buxton reminded Subcommittee members to come to the meetings on time if at all possible.

MOTION: Rep. Bowman moved to adjourn the meeting.

The motion passed unanimously with Sen. Dmitrich and Reps. Becker and Walker absent for the vote.

The meeting was adjourned at 4:15 p.m. by Co-Chair Buxton.

The minutes were reported by Bonnie Brinton.

Sen. Scott K. Jenkins
Committee Co-Chair

Rep. David G. Buxton
Committee Co-Chair